

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

MARLITA WILLIAMS,)	
)	
Petitioner,)	
)	
v.)	1:12CV1206
)	
RUEBEN YOUNG,)	
)	
Respondent.)	

ORDER

The Recommendation of the United States Magistrate Judge was filed with the Court in accordance with 28 U.S.C. § 636(b) and, on November 13, 2012, was served on the parties in this action. Petitioner objected to the Recommendation. [Dock. #4.]

The Court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination in accord with the Magistrate Judge's report. The Court hereby adopts the Magistrate Judge's Recommendation.

IT IS THEREFORE ORDERED that this action is construed as a habeas petition under 28 U.S.C. § 2254 and dismissed *sua sponte* without prejudice to Petitioner filing a new petition which corrects the defects of the current Petition once she exhausts her remedies in state courts. The new petition must be accompanied by either the five dollar filing fee or a current application to proceed *in forma pauperis*.

A Judgment dismissing this action will be entered contemporaneously with this Order. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

This the 11th day of March, 2013.

/s/ N. Carlton Tilley, Jr.
Senior United States District Judge